

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>DOROTHY MAE ROBINSON,</b>	:	<b>CIVIL ACTION NO. 4:09-CV-0157</b>
<b>J.S.R., and D.R.,</b>	:	
<b>Plaintiff</b>	:	<b>(Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>UNITED STATES OF AMERICA,</b>	:	
<b>JOHN MCCANN, USA, TIMOTHY</b>	:	
<b>CROWLEY, DEA,</b>	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 10th day of December, 2010, upon consideration of the report of United States Magistrate Judge J. Andrew Smyser (Doc. 56), recommending that this civil action be dismissed as to the individual claims of plaintiff Dorothy Mae Robinson, recommending that the motion to dismiss of defendants McCann and Crowley be granted on the basis of a lack of personal involvement, recommending that the two minor plaintiffs be permitted to file an amended complaint, recommending that the complaint be dismissed against the United States of America on the basis of sovereign immunity, and recommending that defendants' motion for summary judgment (Doc. 44) be denied without prejudice, and, following an independent review of the record and noting that defendants filed objections<sup>1</sup> to the report on November 23, 2010 (Doc. 58), and

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<sup>1</sup> Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at \*3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at \*6 (M.D. Pa. Sept. 8, 2008)).

the court finding Judge Smyser's analysis to be thorough and well-reasoned, and the court finding defendants' objections to be without merit and squarely addressed by Judge Smyser's report (Doc. 30), it is hereby ORDERED that:

1. The Report of Magistrate Judge Smyser (Doc. 56) is ADOPTED in its entirety.
2. Plaintiffs' complaint is DISMISSED as to the individual claims of plaintiff Dorothy Mae Robinson for the reasons set forth in the Report.
3. The motion to dismiss of defendants McCann and Crowley (Doc. 44) is GRANTED on the basis of a lack of personal involvement. Plaintiffs J.S.R. and D.R. shall be permitted leave to file an amended complaint within twenty (20) days of the date of this Order. Failure to file an amended complaint shall be construed as abandonment of these claims and the case will be dismissed in its entirety.
4. Plaintiffs' complaint is DISMISSED against the United States of America on the basis of sovereign immunity.
5. Defendants' motion for summary judgment (Doc. 44) is DENIED as premature.
6. The above-captioned case is REMANDED to Magistrate Judge Smyser for further proceedings.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge